

By: _____ .B. No. _____

Substitute the following for ____B. No. _____:

By: _____ C.S.____B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the rental and operation of electric generation equipment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.002, Utilities Code, is amended by adding Subdivision (4-b) and amending Subdivisions (6) and (10) to read as follows:

(4-b) "Electric generation equipment lessor or operator" means a person who rents to or operates for compensation on behalf of a third party electric generation equipment that:

(A) is used on the site of the third party;

(B) produces electricity to be consumed by the third party and not resold; and

(C) does not interconnect with the electric transmission or distribution system.

(6) "Electric utility" means a person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state. The term includes a lessee, trustee, or receiver of an electric utility and a recreational vehicle park owner who does not comply with Subchapter C, Chapter 184, with regard to the metered sale of electricity at the recreational vehicle park. The term does not include:

(A) a municipal corporation;

1 (B) a qualifying facility;
2 (C) a power generation company;
3 (D) an exempt wholesale generator;
4 (E) a power marketer;
5 (F) a corporation described by Section 32.053 to
6 the extent the corporation sells electricity exclusively at
7 wholesale and not to the ultimate consumer;
8 (G) an electric cooperative;
9 (H) a retail electric provider;
10 (I) this state or an agency of this state; or
11 (J) a person not otherwise an electric utility
12 who:
13 (i) furnishes an electric service or
14 commodity only to itself, its employees, or its tenants as an
15 incident of employment or tenancy, if that service or commodity is
16 not resold to or used by others;
17 (ii) owns or operates in this state
18 equipment or facilities to produce, generate, transmit,
19 distribute, sell, or furnish electric energy to an electric
20 utility, if the equipment or facilities are used primarily to
21 produce and generate electric energy for consumption by that
22 person; ~~or~~
23 (iii) owns or operates in this state a
24 recreational vehicle park that provides metered electric service in
25 accordance with Subchapter C, Chapter 184; or
26 (iv) is an electric generation equipment
27 lessor or operator.

1 (10) "Power generation company" means a person,
2 including a person who owns or operates a distributed natural gas
3 generation facility, that:

4 (A) generates electricity that is intended to be
5 sold at wholesale, including the owner or operator of electric
6 energy storage equipment or facilities to which Subchapter E,
7 Chapter 35, applies;

8 (B) does not own a transmission or distribution
9 facility in this state other than an essential interconnecting
10 facility, a facility not dedicated to public use, or a facility
11 otherwise excluded from the definition of "electric utility" under
12 this section; ~~and~~

13 (C) does not have a certificated service area,
14 although its affiliated electric utility or transmission and
15 distribution utility may have a certificated service area; and

16 (D) is not an electric generation equipment
17 lessor or operator.

18 SECTION 2. Section 37.001(3), Utilities Code, is amended to
19 read as follows:

20 (3) "Retail electric utility" means a person,
21 political subdivision, electric cooperative, or agency that
22 operates, maintains, or controls in this state a facility to
23 provide retail electric utility service. The term does not include
24 a corporation described by Section 32.053 to the extent that the
25 corporation sells electricity exclusively at wholesale and not to
26 the ultimate consumer. A qualifying cogenerator that sells electric
27 energy at retail to the sole purchaser of the cogenerator's thermal

1 output under Sections 35.061 and 36.007 is not for that reason
2 considered to be a retail electric utility. The owner or operator of
3 a qualifying cogeneration facility who was issued the necessary
4 environmental permits from the Texas Natural Resource Conservation
5 Commission after January 1, 1998, and who commenced construction of
6 such qualifying facility before July 1, 1998, may provide
7 electricity to the purchasers of the thermal output of that
8 qualifying facility and shall not for that reason be considered an
9 electric utility or a retail electric utility, provided that the
10 purchasers of the thermal output are owners of manufacturing or
11 process operation facilities that are located on a site entirely
12 owned before September, 1987, by one owner who retained ownership
13 after September, 1987, of some portion of the facilities and that
14 those facilities now share some integrated operations, such as the
15 provision of services and raw materials. A person who is an electric
16 generation equipment lessor or operator is not for that reason
17 considered to be a retail electric utility.

18 SECTION 3. This Act takes effect September 1, 2021.